

Application Number 09/876,432

Responsive to Office Action mailed September 8, 2005

REMARKS

This amendment is responsive to the Office Action dated September 8, 2005. Applicant has amended claims 1, 4, 8, 38-41 and 75, and canceled claims 2 and 9. Claims 1, 3-8, 10-31, 38-49, and 75-102 are pending.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-24, 48, 49, 75-98, 101 and 102 under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 6,232,870) in view of Parulski et al. (US 5,633,678). Applicant respectfully traverses the rejection to the extent such rejections may be considered applicable to the claims as amended. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Claims 1, 8, 48, 75, 76, 83, and 95

With respect to independent claims 1, 8, 48, 75, 76, 83, and 95, the Examiner correctly recognized that Garber et al. fails to teach categorizing the information associated with the interrogated RFID tags obtained in step (b) in at least one of the categories selected in step (a). The Examiner stated that Parulski et al. teaches that after the user selects a particular category, an image is captured using a camera and the category information is stored in the removable storage device. The Examiner asserted that it would therefore have been obvious to one of ordinary skill in the art to modify the teachings of Garber et al. based on the teachings of Parulski et al to achieve the claimed invention. However, as will be explained below, the proposed modification of Garber et al. in view of Parulski et al. does not achieve in the requirements of claims 1, 8, 48, 75, 76, 83 and 95.

With respect to amended claim 1, Applicant's method of collecting information related to RFID tags includes selecting a category of items, using the RFID reader to interrogate an RFID tag associated with an item of interest to obtain information associated with the item of interest, and thereafter associated the obtained information with the selected category. Applicant has amended claim 1 to further require saving the categorized information obtained in step (c) in a

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database. In this manner, Applicant's method allows a user to assemble a database of categorized information obtained from interrogating RFID tags.

Parulski et al. describes an electronic camera that captures images representing a variety of subjects and allows a user to categorize the images. The user may establish categories by entering category information. The user may select an appropriate category before taking a group of pictures. The category name is then stored along with the image data in the image file. The Examiner's argument is essentially that the categorizing of image data in Parulski et al. teaches and suggests to one of ordinary skill in the art to categorize information obtained from an RFID tag, and to store the categorized information in a database. The Examiner is in effect arguing that the image data captured by a camera is equivalent to RFID information obtained by interrogating an RFID tag. However, this comparison breaks down, because the image data of Parulski et al. is merely raw image data that is stored on a removable storage device. The image data itself is not information that may be associated with categories and used to build a database. For example, the captured image data of Parulski et al. would not be stored in a database, since the image data would be much too large. Instead, the only information described in Parulski et al. that could conceivably be stored in a database is the category information provided by a user and not information automatically captured by a device, e.g., information captured by interrogation of RFID tags. The user-entered information of Parulski is not equivalent to RFID information obtained by interrogating an RFID tag. Furthermore, merely storing images to a removable medium, as referred to by the Examiner with respect to Applicant's claim 2 (now canceled), fails to teach or suggest categorizing information obtained from an RFID tag and to storing the categorized information in a database. As a result, modifying Garber et al. in view Parulski et al. fails to teach or suggest the invention of claims 1, 8, 48, 75, 76, 83, and 95.

With respect to claim 48, neither Garber et al. nor Parulski et al., alone or in combination, teaches "organizing information obtained from the RFID tags in an order associated with the desired locations of the items in a storage area," as recited by claim 48. The Examiner states that "Garber was not clear on the method of organizing collected data." The Examiner makes no attempt to explain how the categorizing of image data of Parulski et al. would teach or suggest organizing the information in an order associated with the desired locations of the items in a storage area. It is unclear what aspect of Parulski et al. would correspond to the recited "items"

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located in a storage area. Therefore, claim 48 recites elements not disclosed or suggested by Garber et al. or Parulski et al., and should be allowable.

With respect to claim 95, neither Garber et al. nor Parulski et al., alone or in combination, teaches "obtaining a list of information related to the RFID tags, the list organized in the order in which the RFID tags were interrogated by an RFID reader; and organizing the information in an order other than the order in which the tags were interrogated by the RFID reader." The Examiner does not address specifically how Garber et al. or Parulski et al. might teach or suggest these elements, but merely states that "Garber was not clear on the method of organizing collected data." For the reasons discussed above with respect to claim 48, Parulski et al. provides no teaching to remedy the deficiencies of Garber et al. with respect to these elements of claim 95.

Claims 18 and 91

With respect to independent claims 18 and 91, Garber et al. in view of Parulski et al. fails to teach or suggest "ignoring any RFID-tagged-item that may not be categorized in at least one category." In the Office Action, the Examiner stated that "Since Parulski teaches that the user can select a particular category and download only the images that have a particular category identifier, Parulski teaches ignoring any item that may not be categorized in the category identified."¹ However, ignoring any item that is not associated with a currently selected category is not the same as ignoring an item that may not be categorized in at least one category, as recited by claim 18. For purposes of clarification, the Applicant refers the Examiner to the present application at pg. 4, ll. 21-34 that describes one embodiment in which the RFID reader ignores any item that does not have certain attributes within a designated category. In particular, the RFID reader does not list or categorize the item itself.

The teaching of Parulski et al. of downloading only images having a particular category identifier does not teach or suggest that an item is not categorized when information related to that item does not fit into one of the categories into which a user is categorizing the items. Parulski et al. makes no mention of images that do not fit into at least one category. Applicant

¹ Office Action dated 9/8/05, page 8.

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respectfully submits that Parulski et al. fails to teach "ignoring any RFID-tagged-item that may not be categorized in at least one category," as recited by claim 18.

Claims 25 –47

In the Office Action, the Examiner rejected claims 25–47 under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 6,232,870) in view of Barritz et al. (US Patent Application Publication 2002/0008621). Applicant respectfully traverses the rejection. As further discussed below, the applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Claim 25

In the Office Action, the Examiner correctly recognized that Garber et al. fails to teach or suggest all of the elements of claim 25. However, the Examiner stated that "it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Barritz to the teachings of Garber such that the user is notified to create a new category for the non-matching item to ensure that the each [sic] and every item is categorized." Applicant respectfully disagrees.

One of ordinary skill of the art in possession of the Garber et al. reference would not have looked to the bar code scanner inventory system of Barritz et al. for modifications, because Garber et al. teaches away from the use of bar code scanner. In particular, Garber et al. details several disadvantages of using an optical barcode scanning system, and explains how the RFID tag system can overcome the disadvantages posed by optical barcodes.² As one example, Garber et al. states: "This capability enables the development of numerous useful applications in the areas of inventory control, item tracking, and sorting that would be difficult [or] impossible to implement with bar-code based identification systems."³ Garber et al. also states that "the RFID component of the RFID device performs the functions formerly performed by an optical bar-code

² See, e.g., Garber at col. 7, ln. 35–col. 8, ln. 14; col. 12, ll. 58–col. 13, ll. 24.

³ Garber at col. 8, ll. 10–14.

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scanner.”⁴ Consequently, one of ordinary skill in the art would have no motivation to combine the teachings of Garber et al. with Barritz to result in Applicant’s claimed invention.

Claims 38, 39, 40, 41

Claim 38 requires using the information obtained from an RFID tags for determining the presence or absence of the items in the storage area simultaneously with using the information for an unrelated purpose. Thus, claim 38 requires simultaneously using the information from the RFID tags for performing two distinct functions. Applicant has amended claims 38, 39, 40, and 41 to clarify that determining the presence or absence of the items in the storage area is performed simultaneously with step (a).

With respect to claims 38, 39, 40, and 41, the Examiner correctly recognized that Garber et al. fails to teach or suggest simultaneously using the information obtained in step (a) for determining the presence or absence of the items in the storage area. However, the Examiner stated that “[s]ince Barritz verifies against the database and locates the entry, Barritz also teaches simultaneously determining the presence or absence of the item because if the item is verified, it is present, and if the item is not verified, then it is absence [sic]. With Barritz teaching the item is either present or absence [sic], therefore, it must be one or the other.”

The Examiner makes no assertion that Barritz et al. teaches or suggests using information obtained by interrogating RFID tags for performing two distinct functions. In particular, the Examiner makes no assertion that Barritz et al. teaches using the information for determining the presence or absence of items in a storage area, while simultaneously using the information for a purpose other than determining the presence or absence of items, as required by claims 38–41. Instead, the Examiner appears to suggest that if Barritz et al. teaches scanning a barcode on an item to verify that an entry exists in a database for the item, and that whether the item is verified as existing within the database corresponds to its presence or absence in a storage area. Applicant respectfully submits that the presence or absence of an item in a storage area is not tied to the existence of an entry in a database for the item. For example, the item may be present in a storage area, but an entry may not yet exist for the item in a database. Consequently, it is incorrect to say that by verifying that an entry exists in a database for an item, the system of

⁴ Garber at col. 11, ll. 56–58.

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Barritz et al. is simultaneously using the information to determine the presence or absence of an item in a storage area.

In any case, Barritz et al. provides no teaching of using the information obtained by interrogating RFID tags for simultaneously performing two distinct functions, as required by claims 38–41. Furthermore, Barritz et al. fails to teach or suggest obtaining information for the purpose of determining whether the items are in a predetermined order within a storage area, as recited by claim 39. Barritz et al. similarly fails to teach or suggest determining information related to the items for the purpose of searching for certain items on a predetermined search list, as recited by claim 40. In addition, Barritz et al. fails to teach or suggest determining information related to the items for the purpose of checking items into or out of a storage area, as recited by claim 41.

Thus, Garber et al. in view of Barritz et al. does not teach all the elements of claims 38, 39, 40, and 41.

Claims 42, 45

In the Office Action, the Examiner correctly recognized that Garber et al. does not teach or suggest enabling the user to correct an inventory list in real time. Moreover, the Examiner did not specifically assert that Barritz et al. teaches or suggests this element. Instead, the Examiner repeated the general statement quoted above with respect to claims 38–41 related to the “simultaneous” feature. In fact, the cited portion of Barritz et al. provides no teaching of enabling a user to correct an inventory list in real time by confirming that the item is present/absent, as required by step (d) of claims 42 and 45. Applicants assert that Barritz et al. does not disclose step (d), and the rejection should be withdrawn.

In addition, Applicants respectfully submit that the Examiner has not made out a prima facie case of obviousness based on Garber et al. in view of Barritz et al., because there is no reasoned statement that explains why it would have been obvious to one of ordinary skill in the art to have modified the system disclosed in Garber et al. to meet the limitations of claims 42 and 45. Instead, there is only a cursory statement that “[i]t would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Barritz to the teachings of Garber such that the user is notified to create a new category for the non-

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matching item to ensure that the each [sic] and every item is categorized. By ensuring that every item belongs to a category, the user is able to locate the item in a faster manner.”⁵ Accordingly, the applied rejection is believed to be faulty, and if the Examiner proposes to provide any reasoning supporting the rejection, then Applicants respectfully request another non-final Office Action be issued so that Applicants may learn what that reasoning is and reply to it (See M.P.E.P. § 2143).

Claims 99 and 100

In the Office Action, the Examiner rejected claims 99 and 100 under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 6,232,870) in view of Parulski et al. (US 5,633,678) as applied to claim 97 above, and further in view of Barritz et al. (US Patent Application Publication 2002/0008621). Applicant respectfully traverses the rejection. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

In the Office Action, the Examiner correctly recognized that Garber et al. does not teach or suggest creating a list of items that are on the predetermined ordered list but not among the ordered list, as recited by claim 99, and does not teach or suggest creating a list of items that are on the ordered list but not among the predetermined ordered list, as recited by claim 100. Again, the Examiner did not specifically assert that Barritz et al. teaches or suggests these elements. Instead, the Examiner repeated the general statement quoted above with respect to claims 38–41 related to the “simultaneous” feature. The cited portion of Barritz et al. provides no teaching of creating a list of items that are on the predetermined ordered list but not among the ordered list, as recited by claim 99, and provides no teaching of creating a list of items that are on the ordered list but not among the predetermined ordered list, as recited by claim 100. Applicants assert that Barritz et al. does not disclose the elements of claim 99 or claim 100, and the rejection must be withdrawn.

⁵ Office Action dated 9/8/05, at pages 18–19.

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For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicants' claims 1-31, 38-49, and 75-102 under 35 U.S.C. 103(a).

Withdrawal of these rejections is therefore respectfully requested.

Rejection for Obviousness-type Double Patenting:

The Examiner provisionally rejected claim 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 60 of copending Application No. 09/882,969.

The Examiner provisionally rejected claims 1-24, 48-49 and 67-74 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 60 and 64-77 of copending Application No. 09/882,969.

The Examiner provisionally rejected claims 32-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-16 and 42 of copending Application No. 09/755,714.

Applicants note the provisional status of this rejection. Accordingly, Applicants will address this issue if and when the rejection is formally applied.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

November 22, 2005

SHUMAKER & SIEFFERT, P.A.

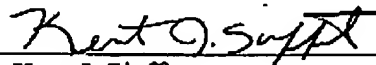
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